

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen,) CIVIL NO. CV03 00385
Plaintiff,) SOM-LEK
) (Copyright)
vs.)
HAWAIIAN EXPRESS SERVICE,)
INC., a California corporation; H.E.S.)
TRANSPORTATION SERVICES,) DATE TAKEN: 12-16-03
INC., a California corporation; CALIFORNIA)
PACIFIC CONSOLIDATORS,)
INC., a California corporation; JEFFREY P.)
GRAHAM and PETER SCHAUL,)
California citizens; MARK)
DILLON and TERESA NOA,)
BRIAN CHRISTENSEN, Hawaii)
citizens; FLEMING)
COMPANIES, INC., an)
Oklahoma corporation;)
C & S LOGISTICS OF HAWAII,)
LLC, a Delaware LLC;)
C & S WHOLESALE GROCERS,)
INC., a Vermont corporation; C & S)
ACQUISITIONS, LLC;)
FOODLAND SUPER MARKET,)
LIMITED, a Hawaii corporation; HAWAII)
TRANSFER COMPANY, LIMITED,)
a Hawaii corporation, DOE)
INDIVIDUALS 1-350; DOE)
PARTNERSHIPS, CORPORATIONS)
and OTHER DOE ENTITIES)
1-20,)
Defendants.)
-----)

COPY

1 ambiguous. "Your," you mean his, personally?

2 Q (By Mr. Hogan) Well, the one that you
3 created.

4 A Is she accessing the spreadsheets with
5 our data? Yes.

6 Q How does she do that?

7 A She operates her computer via remote
8 control software just as she had done previously
9 from home when she lived here.

10 Q And she has an Internet connection to
11 your knowledge?

12 A Yes.

13 Q Do you know who provides her the service
14 for Internet connection?

15 A No.

16 Q Did Mr. Berry's database have a field
17 called "Container Number"?

18 A Something called "Container No."

19 Q Did the one you created in June have a
20 column called "Container No"?

21 A No. It has a column called "Container
22 Number."

23 Q So you spelled out the word "number"?

24 A That's correct.

25 Q Now, did Mr. Berry's database have a

1 field called "Job No"?

2 A "Job No"? I don't believe so.

3 Q Did it have one that was called "Job
4 Number"?

5 A No.

6 Q "Job ID"?

7 A Yes.

8 Q Do you have a column in your spreadsheets
9 called "Job ID"?

10 A No.

11 Q Do you have one that equates to "Job ID"?

12 A Yes.

13 MR. HOSODA: The question is vague and
14 ambiguous as to what "equates" means.

15 Q (By Mr. Hogan) Do you understand the
16 question, sir?

17 A Yes, I understand.

18 Q Okay. And do you have a column in your
19 spreadsheets that equates to "Job ID"?

20 MR. HOSODA: Same objection.

21 Q (By Mr. Hogan) If you understand the
22 question, you can answer it, sir.

23 MR. HOSODA: I haven't instructed him not
24 to.

25 THE WITNESS: Let's go on. My counsel's

Hogan Dec Exhibit 4

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1 instructed me not to answer.

2 MR. HOSODA: No, I said I have not
3 instructed you not to answer.

4 THE WITNESS: Oh, okay. We have a field
5 called "Order ID." Now, understanding -- I presume
6 where you're going with this is that we're
7 duplicating Mr. Berry's database. To have an ID
8 column in any table is standard for the industry,
9 for the IT industry. So if you have a spreadsheet
10 of purchase orders, you'll have an order ID. If
11 you have a database table of container data, you
12 will have a container ID. It's just
13 industry-standard stuff.

14 Q (By Mr. Hogan) When you created your
15 column that you called job -- I'm sorry. What was
16 the answer, sir? Order ID?

17 A Order ID.

18 Q At the time that you did that, did you
19 have a copy of Mr. Berry's software in your
20 possession?

21 A I don't understand what you mean by in my
22 possession.

23 Q Okay. Was there a copy of it resident on
24 the server in Kapolei?

25 A Yes, there was.

1 C E R T I F I C A T E

2 STATE OF HAWAII)
3) ss.
4)

5 I, LAURA SAVO, a Notary Public in and for
6 the State of Hawaii, do hereby certify:

7 That prior to being examined, the witness
8 herein, MARK DILLON, was sworn by me to testify to
9 the truth, the whole truth and nothing but the
10 truth;

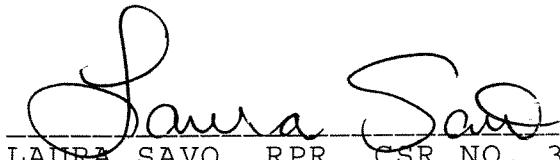
11 That the foregoing deposition was taken
12 down by me in machine shorthand at the time and
13 place herein stated, and was thereafter reduced to
14 typewriting under my supervision;

15 That the foregoing is a full, true
16 and correct transcript of said deposition;

17 That after said deposition was reduced to
18 typewriting, the witness, in accordance with Rule
19 30(e) of the Hawaii Rules of Civil Procedure, was
20 duly informed of the right to make such corrections
21 as might be necessary to render the same true and
22 correct.

23 I further certify that I am not of
24 counsel or attorney for any of the parties to this
25 case, nor in any way interested in the outcome
hereof, and that I am not related to any of the
parties hereto.

Witness my hand and seal this 21st day of
December, 2003.


21 LAURA SAVO, RPR, CSR NO. 347
22 Notary Public, State of Hawaii
23 My Commission Expires: 11/28/2005
24
25